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Attorneys for Defendants
 EDUCATIONAL COMMISSION FOR
 FOREIGN MEDICAL GRADUATES
 erroneously sued as
 EDUCATION COMMISSION FOR
 FOREIGN MEDICAL GRADUATES; and
 FOUNDATION FOR ADVANCEMENT OF
 INTERNATIONAL MEDICAL EDUCATION
 AND RESEARCH

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

| | | |
|---------------------------------------|---|-------------------------------|
| ST.LUKE SCHOOL OF MEDICINE, et al. |) | Case No. CV-10-1791RGK (SHx) |
| |) | |
| Plaintiff(s) |) | DEFENDANTS' POINTS AND |
| |) | AUTHORITIES IS SUPPORT OF |
| v. |) | MOTION TO DISMISS PLAINTIFFS' |
| |) | FIRST AMENDED COMPLAINT |
| |) | FOR LACK OF PERSONAL |
| |) | JURISDICTION |
| REPUBLIC OF LIBERIA, et al. |) | |
| |) | [FRCP Rule 12(b)(2)] |
| Defendants. |) | |
| |) | Date: June 14, 2010 |
| |) | Time: 9:00 a.m. |
| |) | Courtroom: 850 |
| |) | |
| |) | |

Defendants EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL
 GRADUATES erroneously sued as EDUCATION COMMISSION FOR
 FOREIGN MEDICAL GRADUATES ("ECFMG") and FOUNDATION FOR
 ADVANCEMENT OF INTERNATIONAL MEDICAL EDUCATION AND

1 RESEARCH (“FAIMER”) submit the following memorandum of points and
 2 authorities in support of their motion to dismiss for lack of personal jurisdiction
 3 pursuant to Federal Rules of Civil Procedure section 12(b)(2).

4 **I.**

5 **ISSUES PRESENTED**

6 Plaintiffs do not have an adequate basis for personal jurisdiction over
 7 moving defendants, and their pleadings lack any such assertions. Moving
 8 defendants were served in Pennsylvania. Both moving defendants’ principal place
 9 of business is in Pennsylvania, all operations out of which this case arises occurred
 10 in Pennsylvania. Moving defendants have not consented to personal jurisdiction
 11 within the state of California.

12 **II.**

13 **STATEMENT OF FACTS**

14 Plaintiffs are St. Luke School of Medicine, Dr. Jerroll B. R. Dolphin and Dr.
 15 Robert Farmer. On March 11, 2010, plaintiffs filed their complaint for damages in
 16 the United States District Court, Central District of California. Plaintiffs thereafter
 17 filed a first amended complaint. On April 21, 2010, plaintiffs personally served
 18 moving defendants with said first amended complaint in Pennsylvania.

19 Both moving defendants ECFMG and FAIMER are 501(c)(3) not-for-profit
 20 corporations. Defendant ECFMG is an Illinois corporation with its principal place
 21 of business in Philadelphia, Pennsylvania. Defendant FAIMER is Pennsylvania
 22 corporation with its principal place of business in Philadelphia, Pennsylvania.

23 The alleged operations of moving defendants out of which this case arises
 24 occurred in Pennsylvania. All potential employee and non-employee witnesses for
 25 moving defendants are located in Pennsylvania. The acts or omissions for which
 26 plaintiffs seek to hold defendants liable in this action all occurred outside of
 27 California.
 28

As more fully set forth below, it would be unreasonable to require defendants to defend this action in courts within California due to the burden on moving defendants considering that moving defendants are not incorporated in California, their principal place of business is in Pennsylvania, all business operations out of which this case arises occurred in Pennsylvania, and all witnesses and employees of moving defendants are located are in Pennsylvania.

III.

APPLICABLE LAW

Personal jurisdiction is required whenever a judgment is sought that would impose an obligation on defendant personally. *Pennoyer v. Neff* (1877) 95 US 714, 720-722. Ordinarily, federal courts do not have nationwide personal jurisdiction. *Omni Capital Int'l, Ltd. v. Rudolph Wolff & Co., Ltd.* (1987) 484 US 97, 104-105; see F.R.C.P. 4(k)(1)(A).

Due process requires an adequate basis for jurisdiction over the party sought to be bound by the court's judgment or decree. The three bases for exercise of personal jurisdiction recognized since early common law are: 1. service within state (physical presence); 2. domicile; 3. consent. *Pennoyer v. Neff* (1877) 95 US 714, 720-722. Absent one of the traditional bases for jurisdiction above (presence, domicile, or consent), due process requires that the defendant have "certain minimum contacts with (the forum state) such that the maintenance of the suit does not offend traditional notion of fair play and substantial justice." *International Shoe Co. v. Washington* (1945) 326 US 310, 316.

IV.

ARGUMENT

As explained below, plaintiffs lack both the traditional bases for jurisdiction (presence, domicile, or consent), as well as the "minimum contacts" necessary to establish personal jurisdiction over moving defendants.

1 A. Moving defendants were neither served within the state of California,
 2 nor have they consented to personal jurisdiction in California.

3 Plaintiffs served moving defendants in Philadelphia, Pennsylvania on April
 4 21, 2010 with the First Amended Complaint. (See Donohue Declaration, par. 14.)
 5 Moving defendants have not consented to personal jurisdiction in the state of
 6 California.

7 B. Moving Defendants were not domiciled within the state of California.

8 Defendant ECFMG is a 501(c)(3) not-for-profit corporation, incorporated in
 9 the State of Illinois, with its principal place of business in Philadelphia,
 10 Pennsylvania and is engaged in the business of assessing and certifying foreign
 11 medical graduates for entry into graduate medical education programs in the
 12 United States. (See Donohue Declaration, par. 2.)

13 Defendant FAIMER is a 501(c)(3) not-for profit corporation, incorporated in
 14 the State of Pennsylvania, with its principal place of business in Philadelphia,
 15 Pennsylvania and is engaged in the business of enhancing international medical
 16 education through programs of research and education, as well as maintaining a
 17 directory of international medical schools, known as the International Medical
 18 Education Directory (“IMED”). (See Donohue Declaration, par. 3.)

19 C. Moving defendants do not have “minimum contacts” with the state of
 20 California.

21 Neither moving defendant is incorporated in California, nor is either moving
 22 defendants’ principal place of business in California. (See Donohue Declaration,
 23 pars. 2-4.) No officers or directors of either moving defendant reside or are
 24 domiciled in California. (See Donohue Declaration, par. 5.)

25 All of moving defendants operations out of which this case purportedly
 26 arises occurred in Pennsylvania, although defendant ECFMG does currently runs a
 27 single testing facility for a single component of the United States Medical
 28 Licensing Exam in Los Angeles, California. (See Donohue Declaration, par. 6.)

1 All potential employee and non-employee witnesses for moving defendants are
 2 located in Pennsylvania. (See Donohue Declaration, par. 7.) The acts or omissions
 3 for which plaintiffs seek to hold defendants liable in this action all occurred outside
 4 of California. (See Donohue Declaration, par. 12.)

5 **V.**

6 **CONCLUSION**

7 The Court lacks personal jurisdiction over moving defendants. Thus, moving
 8 defendants respectfully request the court dismiss plaintiffs' claim pursuant to Rule
 9 12(b)(2).

10
 11 Dated: May 12, 2010

LAW OFFICES OF JAMES R. ROGERS

James R. Rogers

12
 13 By: _____

James R. Rogers, Esq.

Attorneys for Defendants

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